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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/488,181	01/20/2000	Wassim A. Matragi	6-3	4051

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Ryan & Mason LLP
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EXAMINER

ABELSON, RONALD B

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 09/24/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/488,181

Applicant(s)

MATRAGI ET AL.

Examiner

Ronald Abelson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/20/2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 6-9, 12-16, 18-21, and 24 rejected under 35 U.S.C. 102(e) as being anticipated by McAllister (US 6,215,765).

Regarding claims 1 and 8, McAllister teaches a method and apparatus for an overload control method (failure, congestion: col. 2 lines 62-65, crankback: col. 3 lines 25-27) for use in a network employing distributed call processing.

The system receives a call set up request from an end terminal (col. 3 lines 5-7).

The system determines if sufficient resources exist to process the call set up request (col. 3 lines 7-9).

The system identifies an alternate call processor to process the call set up request using a list of call processor if sufficient resources do not exist (col. 3 lines 25-27).

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The system forwards the call set up request to the identified alternate call processor with an identifier of the congested call processor, whereby the forwarded call set up request indicates to the alternate call processor that the congested call processor is congested (col. 3 lines 32-37).

Regarding claims 8 and 20, in addition to the limitations previously listed in claim 1, setting a flag associated with the congested call processor indicating that the congested call processor is congested (record of the Route and Route list, col. 3 lines 32-34).

Regarding claims 13 and 20, in addition to the limitations previously listed 1, a memory for storing computer readable code and a processor (fig. 1: contained within nodes A-C).

Regarding claims 2 and 14, the call processor that previously received a forwarded call set up request within a predefined interval is not selected as the alternate call processor during the identifying step (col. 3 lines 34-37).

Regarding claims 3 and 15, the identifying step further comprises the step of evaluating a congestion indicator flag

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associated with each potential alternate call processor, wherein the congestion indicator flag is set if a congestion message is received from the corresponding alternate call processor (col. 3 lines 39-41). Note, all possible routes on the list are examined before "cranking back" one more hop.

Regarding claims 4 and 16, setting a flag indicating that the selected alternate call processor received the forwarded call set up request (record of the Route and Route List, col. 3 lines 32-37).

Regarding claims 5 and 17, the flag indicating that the selected alternate call processor received the forwarded call set up request automatically expires after a predefined interval ().

Regarding claims 6 and 18, evaluating a total congestion indicator flag indicating whether all potential alternate call processors are congested (col. 3 lines 39-41).

Regarding claims 7 and 19, the list of call processors is an ordered list (next available route, col. 3 lines 36-37).

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Regarding claim 9 and 21, the system determines if sufficient resources exist to process the forwarded call set up request (col. 3 lines 7-9).

Regarding claims 12 and 24, the system receives a call set up request from an end terminal (col. 3 lines 5-7), determines if sufficient resources exist to process the call set up request (col. 3 lines 7-9), identifies an alternate call processor to process the call set up request using (col. 3 lines 25-27) using the flag associated with each potential alternate call processor (record of the Route and Route List, col. 3 lines 32-37).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 10, 11, 17, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over McAllister as applied

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to claims 1, 8, 13, and 20 above, and further in view of Ash (US 4,345,116).

McAllister fails to teach the flag indicating the selected alternate call processor received the forwarded call set up request automatically expires after a predetermined time.

Ash teaches crankback is used in a time sensitive environment where alternate routing is responsive to variations in traffic demand (col. 7 lines 17-30).

Therefore it would have been obvious to one of ordinary skill in the art, having both McAllister and Ash before him/her and with the teachings [a] as shown by McAllister, a method and apparatus for an overload control method for use in a network employing distributed call processing, and [b] as shown by Ash, crankback is used in a time sensitive environment where alternate routing is responsive to variations in traffic demand, to be motivated to modify the system of McAllister by updating the routing priority table at each node at predetermined intervals. This could be accomplished by having taking traffic measurements at each node and at predetermined intervals and updating the routing priority tables based upon the measurement. This would improve the system by always selecting the best available path between source and destination.

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Response to Arguments

5. Applicant's arguments filed 7/7/2003 have been fully considered but they are not persuasive.

Regarding claims 1, 8, 13, and 20, the applicant argues, "McAllister teaches congestion in regard to network links, not call processors" (applicant: pg. 3 lines 24-25). As further noted by the applicant, "McAllister teaches "congestion may occur on a network link if many incoming streams of traffic all terminate on the same outbound link" (applicant: pg. 3 lines 25-26). The applicant maintains that the call processor is part of the network link. Secondly, the connection between the "many incoming streams of traffic all terminate on the same outbound link" is the call processor. The applicant further contends, "McAllister does not disclose or suggest 'whereby said forwarded call set up request indicates to said alternate call processor that said congested call processor is congested'" (applicant: pg. 4 lines 3-4). However, McAllister states, "if the primary route is not usable due to congestion or physical failure, the node then attempts to forward the setup message on the alternate route" (col. 2 lines 34-36). Regarding the applicant's contention that McAllister does not teach setting a flag associated with the congested call processor, as previously

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addressed a Route List is available to the system in order to perform Crankback (record of the Route and Route list, col. 3 lines 32-34).

Regarding the dependent claims (applicant: pg. 4 line 7 - pg. 5 line 2), the examiner disagrees with the applicant's contention that the limitations of independent claims 1, 8, 13, and 20 were not met. The examiner has addressed all the limitations of the independent in the office action.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Abelson whose telephone number is (703) 306-5622. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (703) 308-5463. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9600.

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Ronald Abelson
Examiner
Art Unit 2666

September 22, 2003

Seema S. Rao
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